

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1455 Division of Library and Information Services

SPONSOR(S): Rodriguez, A. M.

TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Oversight, Transparency & Public Management Subcommittee	11 Y, 0 N	Villa	Smith
2) Transportation & Tourism Appropriations Subcommittee			
3) State Affairs Committee			

SUMMARY ANALYSIS

The Division of Library and Information Services (Division), within the Department of State, is responsible for managing and administering the State Aid to Libraries Grant Program, the Florida State Archives, the Records Management Program, the State Records Center, and the Library Cooperative Grants Program.

By December 1 of each year, the Division must certify to the Chief Financial Officer the amount to be paid to a political subdivision under the State Aid to Libraries Grant Program. The bill maintains an annual certification, but removes the December 1 deadline.

The Division is responsible for encouraging and initiating efforts to preserve, collect, process, transcribe, index, and research the oral history of Florida government. The Division is also responsible for making preservation duplicates of official state records, or designating existing copies as preservation duplicates. The bill relieves the Division of these responsibilities.

The Division operates the State Records Center that stores official state records transferred to it by state agencies. When a record stored at the facility is eligible for destruction the Division must notify the transferring agency via certified mail. The transferring agency has 90 days upon receipt to request continued storage or authorize destruction or disposal. If the agency does not respond within 90 days, title to the record is transferred to the Division. The bill amends this process and requires the agency to respond and specify their desired management of the record.

Currently, each agency must designate a records management liaison officer. The bill specifies that the liaison officer will serve as the primary point of contact between the Division and agency for records management purposes, and provides that the liaison officer shall conduct any records management function the agency assigns.

Library cooperatives can receive an annual grant of not more than \$400,000 from the state for resource sharing activities. The bill removes the \$400,000 annual cap.

The bill may have a positive fiscal impact on local governments. See Fiscal Comments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

The Division of Library and Information Services

The Florida Department of State's Division of Library and Information Services (Division)¹ manages the State Library and Archives, supports public libraries, directs record management services, and is the designated information resource provider of the state.²

The Division may receive gifts of money, books, or other property and may purchase books, periodicals, furniture, and equipment it deems necessary to carry out its mission. The Division may also give aid and assistance to all school, state, academic, free, and public libraries, and to all communities in the state which may establish libraries. The Division is required to maintain a library for state officials and employees and provide research and informational services for all state agencies. The Division must also provide library services to blind and physically handicapped persons within the state.³

State Aid to Libraries Grant Program

The State Aid to Libraries Grant Program (Grant Program), established in 1961, is an incentive program designed to encourage local governments to establish and continue development of free library service to residents and to provide funding to support that library service.⁴ A political subdivision designated by a county or municipality as the single library administrative unit is eligible to receive from the state an annual operating grant of not more than 25 percent of all local funds expended by that political subdivision for the operation and maintenance of a library.⁵ Three types of grants are available under the Grant Program. The grants and criteria are:

- Multicounty grants are awarded to systems of two or more counties that qualify for operating grants and have joined together to provide library service to their residents.
- Equalization grants are awarded to county library systems that also meet the requirements for operating grants and have limited financial resources.
- Operating grants are awarded to any county or municipality that meets basic criteria for professional library services.

The Division is tasked with the administration and allocation of grants under the Grant Program.⁶ By December 1 of each year, the Division must certify to the Chief Financial Officer the amount to be paid to each political subdivision.⁷ By January 1, the Division must complete an evaluation and review of applications submitted under the Grant Program.⁸ The Division must verify the amount of local expenditures submitted by a political subdivision as a part of their application.⁹ After the applications are determined sufficient and complete, the Division will award the grant amounts based on the appropriation of funds by the Legislature.¹⁰

Effect of the Bill

¹ Section 20.10(2)(d), F.S.

² Florida Department of State, *Division of Library and Information Services*, <https://dos.myflorida.com/library-archives/> (last visited January 24, 2020).

³ Section 257.04, F.S.

⁴ See R. 1B-2.011(2)(a), F.A.C.

⁵ Section 257.17, F.S.

⁶ Section 257.22, F.S.

⁷ *Id.*

⁸ See R. 1B-2.011(2)(a), F.A.C.

⁹ *Id.*

¹⁰ *Id.*

The bill provides that the certification of funds to be paid to a political subdivision must be made annually – as opposed to December 1 of each year.

Florida State Archives

The Florida State Archives (Archives) collect, preserve, and make available for research the historically significant records of the state, as well as private manuscripts, photographs, and other materials that complement the official state records.¹¹ The Archives are open to anyone interested in learning about Florida history, government, and people.¹² The Division is tasked with the operation, organization, and administration of the Archives.¹³ It is the duty and responsibility of the Division to:

- Preserve and administer the records transferred to its custody;
- Assist in the determination of retention values for records;
- Cooperate with and assist state institutions, departments, agencies, counties, municipalities, and individuals engaged in activities in the field of state archives, manuscripts, and history;
- Accept from any person any paper, book, record, or similar material that the Division believes warrants preservation in the Archives;
- Provide a public research room where the materials in the Archives may be studied;
- Conduct, promote, and encourage research in Florida history, government, and culture;
- Maintain a program of information, assistance, coordination, and guidance for public officials, educational institutions, libraries, the scholarly community, and the general public engaged in such research;
- Cooperate with and assist agencies, libraries, institutions, and individuals in projects designed to preserve original source materials relating to Florida history, government, and culture;
- Prepare and publish handbooks, guides, indexes, and other literature directed toward encouraging the preservation and use of the state's documentary resources; and
- Encourage and initiate efforts to preserve, collect, process, transcribe, index, and research the oral history of Florida government.

Effect of the Bill

The bill amends the Division's duties and responsibilities regarding the Florida State Archives. Specifically, the bill deletes the provision requiring the Division to "[e]ncourage and initiate efforts to preserve, collect, process, transcribe, index, and research the oral history of Florida government."¹⁴ According to the Division, the Division has never performed these activities and has neither the resources nor the staff expertise to do so.¹⁵

Records Management Program

The Division is tasked with administering a records management program responsible for establishing best practices for the creation, utilization, maintenance, retention, preservation, and disposal of records.¹⁶ To that end, it is the duty and responsibility of the Division to:

- Analyze, develop, establish, and coordinate standards, procedures, and techniques of record making and recordkeeping;
- Maintain a training and information program in all phases of records and information management to bring current practices for the efficient and economical management of records to the attention of all agencies;
- Maintain a training and information program regarding laws regulating public record access;
- Make continuous surveys of recordkeeping operations; and
- Recommend improvements in current record management practices.¹⁷

¹¹ Florida Department of State, *supra* note 2.

¹² *Id.*

¹³ Section 257.35(1), F.S.

¹⁴ Section 257.35(1)(h), F.S.

¹⁵ Department of State, Agency Analysis of 2020 House Bill 1455, p. 2 (January 22, 2020).

¹⁶ Section 257.36(1), F.S.

¹⁷ *Id.*

The Division must also cooperate with each agency¹⁸ in the selection and preservation of records considered essential to the operation of government.¹⁹ Each agency must:

- Cooperate with the Division in complying with the provisions of ch. 257, F.S.;
- Designate a records management liaison officer; and
- Establish and maintain an active and continuing program for the economical and efficient management of records.

In the interest of records management, the Division must also make or have made preservation duplicates, or designate existing copies of records as preservation duplicates, to be preserved in a place and manner of safekeeping.²⁰ Any preservation duplicate has the same force and effect as the original record.²¹

Effect of the Bill

The bill amends the records management program and removes the requirement for the Division to make preservation duplicates, or designate existing copies of records as preservation duplicates. The bill also removes the provision specifying that preservation duplicates have the same force and effect as the original record.

State Records Center

The Division is responsible for establishing and operating a records center or centers for the storage, processing, servicing, and security of public records that must be retained for varying periods of time but need not be retained in an agency's office equipment or space.²² The Division must:

- Ensure the maintenance and security of records deemed appropriate for preservation;
- Establish safeguards against unauthorized or unlawful removal or loss of records;
- Initiate appropriate action to recover records removed unlawfully or without authorization.²³

To accomplish this, the Division operates the Edward N. Johnson Records and Information Center (State Records Center), which is equipped to store paper records, microfilm, and electronic media.²⁴ All records transferred to the Division for storage can be held in the State Records Center, or any other records center the state may operate, for such time as the Division deems necessary.²⁵ Title of any record stored by the Division will remain in the agency transferring such record to the Division.²⁶ When a record stored by the Division is eligible for destruction, the Division must provide notice to the agency in writing by certified mail.²⁷ The agency has 90 days to respond and request continued retention or authorize destruction or disposal of the record.²⁸ If the agency does not respond within that timeframe, title to the record will pass to the Division.²⁹

Effect of the Bill

¹⁸ The term "agency" is defined to mean any state, county, district, or municipal officer, department, division, bureau, board, commission, or other separate unit of government created or established by law. Section 257.36(5), F.S.

¹⁹ Section 257.36(1)(j), F.S.

²⁰ Section 257.36(1)(k), F.S.

²¹ Section 257.36(4), F.S.

²² Section 257.36(1), F.S.

²³ *Id.*

²⁴ Florida Department of State Division of Library and Information Services, *The Basics of Records Management*, (October 2017), <https://dos.myflorida.com/media/698456/final-basics-of-records-management-2017.pdf> (last visited January 26, 2020).

²⁵ Section 257.36(2)(a), F.S.

²⁶ Section 257.36(2)(b), F.S.

²⁷ Section 257.36(2)(c), F.S.

²⁸ *Id.*

²⁹ *Id.*

The bill amends the process by which the Division must notify an agency that a record held in a records center is eligible for destruction or disposal. Specifically, the bill deletes the requirement for the Division to notify the agency via certified mail, and the provision demanding title of the record to pass to the Division in the case the agency does not respond. Instead, the bill requires the agency to respond to the Division's written notification.

The bill specifies the duties and responsibilities of an agency records management liaison officer is to serve as the primary point of contact between the agency and the Division for records management purposes and to conduct any records management functions the agency assigns.

Library Cooperative Grants Program

Libraries that are under separate governance may establish nonprofit library cooperatives for the purpose of sharing resources.³⁰ The administrative unit of a library cooperative is eligible to receive an annual grant from the state of not more than \$400,000 to be expended on library resource sharing activities such as:

- Bibliographic record enhancement;
- Statewide delivery service support;
- Union catalog support and development;
- Reciprocal borrowing;
- Cooperative cataloging;
- Cooperative reference services;
- Cooperative development;
- Digitization;
- Innovation of technologies related to resource sharing.³¹

Effect of the Bill

The bill removes the annual cap of \$400,000 that a library cooperative is eligible to receive.

B. SECTION DIRECTORY:

Section 1 amends s. 257.22, F.S., relating to the allocation of funds.

Section 2 amends s. 257.35, F.S., relating to the Florida State Archives.

Section 3 amends s. 257.36, F.S., relating to records and information management.

Section 4 amends s. 257.42, F.S., relating to library cooperative grants.

Section 5 amends s. 120.54, F.S., to correct a cross reference.

Section 6 amends s. 257.34, F.S., to correct a cross reference.

Section 7 provides an effective date of July 1, 2020.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

³⁰ Section 257.41(1), F.S.

³¹ Section 257.42, F.S. See also R. 1B-2.011(2)(c), F.A.C.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

See Fiscal Comments.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

Local governments that receive a library cooperative grant may experience a positive fiscal impact as the bill removes the current \$400,000 annual award cap.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not confer rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.